

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

United States of America,

Plaintiff,

v.

Michael Ward, Sr.,

Defendant.

No. 15-CR-477

Honorable Samuel Der-Yeghiayan

**DEFENDANT’S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR
EARLY SUCCESSFUL TERMINATION OF PROBATION**

I. INTRODUCTION

On August 13, 2015, defendant, Michael C. Ward, Sr. (“Mike Ward”), pled guilty to a one count tax evasion information for a violation of 26 U.S.C. § 7201. On December 10, 2015, this Court sentenced him to a three-year term of probation and to serve 300 hours of community service to the Evanston community. Based on his exemplary service on supervised release the past two years and completion of 250 hours of community service, the defendant respectfully moves the Court for entry of an order successfully terminating early his probation. Senior U.S. Probation Officer Katina C. Dean has been notified of this motion and does not oppose it.

II. FACTUAL BACKGROUND

A. Tax Offense

As the Court will recall, Mike Ward pled guilty to a one court tax offense, the conduct of which was then regrettably common in the Chicagoland scrap metal stamping industry. The defendant was a man who worked hard for 50 years to build a successful and spotless metal stamping company on the North Side of Chicago and later Evanston. His early acceptance of responsibility for the offense in this case in Fall 2013 included his filing amended returns *before*

being contacted by federal law enforcement authorities and payment of all back taxes and penalties in the amount of \$609,413, eighteen months *before* he was charged.

B. ETHS Community Service Program

Months before this Court's sentencing, Mike Ward initiated a mentoring program at Evanston Township High School (ETHS) which serves the community where Ward Manufacturing has operated nearly 64 years. As of November 20, 2017, the defendant had completed 250 hours of community service, including:

- 156 hours of mentoring interns at ETHS;
- 54 hours of hosting student group visits at Ward Manufacturing;
- 33 hours of mentoring "Have Dream" interns; and
- 7 hours purchasing materials for ETHS and meeting with other charitable agencies.

Mike Ward has found his mentoring at ETHS and the Have Dreams program especially rewarding. One student David A. graduated from the high school in 2016 and is now a full-time Ward Manufacturing employee, learning the tool and die trade. Ward Manufacturing has paid for David's courses at Oakton Community College and has great hopes for a managerial future. Another ETHS apprentice Asa H. has now been working full-time at Ward Manufacturing for three months and is coming along fine, learning the metal stamping business from the floor up. The attached letter from Jon Lawrence, Career in Technical Education Instructor at ETHS, confirms the exceptional service of Mike Ward to the high school in his community. He shares that ETHS students are "now asking for the opportunity to work at Ward Manufacturing" (**Appendix**).

During Mike's probation, Ward Manufacturing, under the direction of Mike Ward, has also supported Have Dreams, an organization that, since 1996, has sponsored exemplary autism services. In particular, Mike and his company have, in coordination and consultation with this

organization, introduced two men in their early twenties, Andrew F. and T.J. D., to the metal stamping industry through 14 week courses.

Mike Ward has completed approximately 85% of his 300 community service hours and pledges, whether the Court grants this motion or not, to fulfill the remaining 50 or so hours in the coming year by continuing to provide his services and valuable lessons to ETHS students and others. He has no plans to stop mentoring after completing the remaining 50 community service hours.

C. Senior Probation Officer Katina Dean

Mr. Ward has at all times complied with the rules and requirements of his supervised release. He has met with Senior Probation Officer Dean as requested and otherwise complied with his reporting conditions. As noted at the outset, Ms. Dean does not oppose the motion.

III. THE LEGAL STANDARD

Under 18 U.S.C. Section 3583(e), the Court has authority to grant early termination of a previously imposed term of supervised release. Section 3583(e)(1) provides:

(e) Modification of conditions or revocation. The court may, after considering the factors set forth in 18 U.S.C. Section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7).

(1) terminate a term of supervised release and discharge the defendant released at any time after the expiration of one year of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the defendant released and the interests of justice.¹

¹ 18 U.S. C. Section 3583(e)(1); see also Fed. R. Crim. Procedure 32.1(c)(1), (2)(B) and (C) (providing for hearings for modification of supervised release, unless the result is favorable to the person supervised and the government does not object after notice).

Thus, to be eligible for termination of supervised release the defendant must meet a two-prong test establishing that termination is warranted by (1) “the conduct of the defendant;” and (2) “the interest of justice.” 18 U.S.C. Section 3583(e)(1).

The factors to be considered by the Court for early termination under Section 3583(e)(1) mirror the sentencing factors in Section 3553(a), with one exception – 18 U.S.C. Section 3553(a)(2)(A). The latter subsection is a sentencing factor intended to “reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense.” The exclusion of this subsection as a factor for early termination confirms that supervised release is not intended to be punishment, and this retribution is eliminated as a factor.

Although 18 U.S.C. Section 3583(e)(1) refers district courts generally to a consideration of the Section 3553(a) sentencing factors when deciding an early termination motion, a pragmatic list of criteria to be applied by courts in the context of an early termination proceeding was drafted by the March 2003 Judicial Conference Committee on Criminal Law, chaired by then Chief Judge William Wilkins of the Fourth Circuit. That committee’s criteria were:

1. Stable community reintegration (e.g. residence, family, employment);
2. Progressive strides toward supervision objectives and compliance with all conditions of supervision;
3. No aggravated role in the offense of conviction, particularly large drug or fraud offenses;
4. No history of violence (e.g. sexually assaultive, predatory behavior, or domestic violence);
5. No recent arrests or convictions (including unresolved pending charges) or ongoing uninterrupted patterns of criminal conduct;
6. No recent evidence of alcohol or drug abuse;
7. No recent psychiatric episodes;

8. No identifiable risk to the safety of any identifiable victim; and
9. No identifiable risk to public safety based on the Risk Prediction Index.
(See <http://www.uscourts.gov/ttb/mar04ttb/rewarded/index.html>)

Chief Judge Wilkins asserted that “The committee believes that when the conditions of supervision imposed have been met, and the offender has successfully reintegrated into the community and does not pose a foreseeable risk to public safety in general or to any individual third party, the probation officer should request the court to consider early termination.”² Mike Ward meets each of the above nine criteria and plainly poses no risk to the public safety or society.

IV. ARGUMENT

**THE DEFENDANT MEETS THE TWO CRITERIA FOR EARLY
TERMINATION SET FORTH IN SECTION 3583(e) AND PROMULGATED
BY THE JUDICIAL CONFERENCE COMMITTEE ON CRIMINAL LAW
AND IS DESERVING OF EARLY TERMINATION**

A. The Defendant Meets the First Prong of U.S.C. § 3853 Relating to Conduct

Since December 10, 2015, Mike Ward has been a model probationer. He has regularly met with his probation officer, paid the tax loss in question four years ago, and substantially served his community. He again meets every one of the above nine criteria promulgated by the Judicial Conference Committee on Criminal Law.

To be clear and mindful of the facts, Mike Ward has complied with all his conditions of supervision and met all his supervision objectives. He was not given any aggravated role adjustment in the offense of conviction and has no history of violence. He has no recent arrests or convictions nor ongoing pattern of criminal conduct. He has no recent nor past history of alcohol or drug abuse, nor any history of psychiatric episodes. He presents no identifiable risk to the safety of any identifiable victim, nor to public safety based on the Risk Prediction Index. He now has served over two-thirds of his term of supervised release without the slightest incident.

² Need citation.

Prior to this tax conviction, Mike Ward had no history of criminal behavior. He promptly accepted responsibility here and pled guilty, making it possible for the government to avoid the cost of a lengthy tax investigation. He then served his local community without complaint. He is clearly worthy of early termination of his term of supervised release. He continues to be an extraordinary husband and good father to his natural son, to his adopted son and to his adopted daughter. Each of his adult children previously submitted a heartfelt letter to the Court about what an inspiring father Mike has been, especially in difficult times. Long time employees of Ward Manufacturing, including Ernie Kindl and Ed Samp, also attested to this man's character in letters to this Court in 2015. The defendant's conduct the past four years – since the filing of amended returns, long before any criminal charges, has in short, been exemplary. Two years ago, at the age of 75, Mike Ward embraced his community service responsibilities.³

B. The Defendant Meets the Second Prong as the Interest of Justice Will Be Served By The Early Termination Of The Defendant's Term Of Supervised Release

The defendant also meets the second prong of Section 3853: the Interest of Justice. The second prong for early termination under Section 3583(e)(1) calls for the Court to determine whether “the interest of justice” would be served by the early termination of supervised release.

Mike Ward will turn 77 on January 9, 2018.⁴ He continues to reside in Wilmette with his wife of 20 years, a former letter carrier in Evanston. He has raised a fine daughter and two responsible sons. The Court may further recall Mike Ward is an Army veteran, a man who enlisted and honorably served our country immediately after college when many others chose a far safer path in the late 1960s.

He continues to feel deep remorse for this offense as he expressed at sentencing while assuring the Court that such behavior would never be repeated. He further assures the Court he will honor his remaining hours of community service.

³ During the six-year period in question, Mr. Ward declared and paid \$5,495,205 in taxes; the amount evaded was approximately 10% of his income taxes.

⁴ The life expectancy for the average American male is 76.4 years. (Center for Disease Control and Prevention: Deaths: Final Data for 2014.) Mike Ward has now exceeded his life expectancy.

V. CONCLUSION

Defendant Mike Ward's exemplary "win-win" service while on probation, his advanced age and the interests of justice all merit the favorable exercise of this Court's discretion to grant this motion for early successful termination of supervised release pursuant to Section 3583(e)(1).

Accordingly, Defendant Mike Ward, through his counsel, respectfully moves this Court for early successful termination of his probation.

Dated: November 29, 2017

Respectfully submitted,

MICHAEL C. WARD, SR.

By: /s/ Robert W. Tarun
Robert W. Tarun
Attorney for Defendant
Michael C. Ward, Sr.

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CERTIFICATE OF
SERVICE

The undersigned hereby certifies that in accordance with FED. R. CRIM. P> 49, FED. R. DIV. P. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF), the following document:

**DEFENDANT’S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION FOR EARLY SUCCESSFUL TERMINATION OF PROBATION**

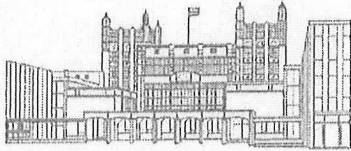
was served pursuant to the District Court’s ECF system as to ECF filers on November ___, 2017 and with a courtesy copy delivered to the Courtroom Deputy, Room 1908, of the Dirksen Federal Building, 219 South Dearborn, Chicago, Illinois 60604

DATED: November 29, 2017

Respectfully submitted,

By: /s/Robert W. Tarun
Robert W. Tarun

Appendix A



EVANSTON TOWNSHIP HIGH SCHOOL

DISTRICT 202 1600 DODGE AVENUE EVANSTON, ILLINOIS 60201-3449 (847) 424-7660

CAREER AND TECHNICAL EDUCATION DEPARTMENT

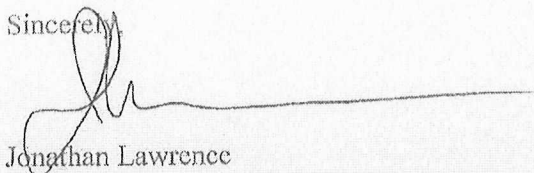
Jonathan Lawrence
1600 Dodge Ave
Evanston, IL 60201
November 16, 2017

Dear Honorable Judge Der-Yeghiayan,

The purpose of this letter is in support of Mike Ward to have his probationary sentence reduced from 3 years to 2 years.

Mike has done an extraordinary amount of work with our high school manufacturing program. He has opened up the doors of his company to many field trips and internships for our students to gain real world work experience in the manufacturing field. He has spent many hours mentoring new employees as well as young adults with special needs in the community. The program has been such a success that students in our program are now asking for the opportunity to work at Ward Manufacturing. Ward Manufacturing has also donated all of the consumable materials for our welding and machining programs since the relationship between Ward Manufacturing and Evanston Township High School began. The generosity of Mike Ward and Ward Manufacturing has allowed our manufacturing program to expand and flourish because of their time and donations.

Sincerely,



Jonathan Lawrence
Career and Technical Education Instructor
Evanston Township High School